

# **Credit for Tax Paid To Another State**

**(For Individuals,  
Estates, and Trusts)**

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**IMPORTANT CHANGE**

Schedule OS must be completed when claiming the credit for tax paid to another state. See Part III.B on page 2.

## I. INTRODUCTION

A Wisconsin resident (person domiciled in Wisconsin) may be subject to the income tax laws of both Wisconsin and another state. This may occur, for example, when the Wisconsin resident is employed outside Wisconsin, rents or sells property located outside Wisconsin, operates a business or profession outside Wisconsin, or has gambling winnings outside Wisconsin.

Two methods exist to prevent the same income from being taxed by more than one state. These methods are (1) credit for tax paid to another state, and (2) reciprocity.

This publication provides information on the credit for tax paid to another state.

For information on reciprocity, see Publication 121, *Reciprocity*, which you may obtain from any Department of Revenue office or from our Internet web site at: [www.dor.state.wi.us](http://www.dor.state.wi.us).

### CAUTION

The information in this publication reflects interpretations by the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of November 1, 2005. Laws enacted after that date, administrative rules, and court decisions may change the interpretations in this publication.

## II. WHO MAY CLAIM THE CREDIT

### A. Types of Taxpayers Who May Qualify

The credit for tax paid to another state is available to individuals, estates, and trusts.

**Note:** A Wisconsin resident shareholder of a tax-option (S) corporation, partner of a partnership, or member of a limited liability company (LLC) treated as a partnership may claim the credit based on income and franchise taxes paid by the corporation, partnership, or LLC to another state if the income taxed by the other state is considered income for Wisconsin tax purposes. (See Part VII on page 7 for information relating to tax-option (S) corporations and their shareholders, partnerships and their partners, and LLCs and their members.)

### B. Qualifications

You qualify to claim the credit for tax paid to another state if the following three requirements are met:

1. You paid an income tax to another state, and
2. The income which is taxable by the other state is also considered income for Wisconsin tax purposes for the same taxable year, and
3. You were a Wisconsin resident at the time the income was considered taxable.

**Example 1:** You were a Wisconsin resident from January 1 through August 31, 2005. During this period of time you were employed in Iowa. You received wages of \$20,000 from your Iowa employer while you were a Wisconsin resident. The \$20,000 is taxable by both Iowa and Wisconsin. You pay an income tax to Iowa based on the \$20,000 of wage income.

You qualify to claim a credit for tax paid to Iowa because (1) you paid an income tax to another state, (2) the income which is taxable by the other state is also considered income for Wisconsin tax purposes for the same taxable year, and (3) you were a Wisconsin resident at the time the income was considered taxable.

**Example 2:** You were a Wisconsin resident from January 1 through July 31, 2005. During this period of time you were employed in Wisconsin. You quit your Wisconsin job and became a resident of Iowa on August 1, 2005. While a resident of Iowa, you received a check from your Wisconsin employer for \$1,000 which was payment for wages earned while you were a Wisconsin resident. The \$1,000 is taxable by both Iowa and Wisconsin. You pay an income tax to Iowa for 2005.

You may **not** claim the Wisconsin credit for tax paid to Iowa. Even though you paid an income tax to another state and the income which is taxable by the other state is also considered income for Wisconsin tax purposes for the same taxable year, you were **not** a Wisconsin resident at the time the income was received (i.e., considered taxable).

#### **C. Tax Must Be an Income Tax**

The tax paid to the other state must have been an “income” tax in order to qualify for the credit. You may not claim credit for other taxes paid which are not income taxes, such as a severance tax, personal property tax, sales and use tax, or real estate tax.

#### **D. “State” Defined**

“State” means the 50 states of the United States and the District of Columbia. It does not include the Commonwealth of Puerto Rico or the several territories organized by Congress. The credit is not allowed for income tax paid to a county, city, village, or town. It is also not allowed for tax paid to a foreign country.

#### **E. Reciprocal States**

You may not claim a credit for tax paid to another state on income which is subject to a reciprocity agreement. For 2005, Wisconsin has reciprocity agreements with Illinois, Indiana, Kentucky, Michigan, and Minnesota.

Under the reciprocity agreements, these five states generally will not tax certain personal service income (for example, wages, salaries, tips, etc.) earned in these states by Wisconsin residents, and Wisconsin will not tax the personal service income earned in Wisconsin by residents of those states. Because income that is subject to a reciprocity agreement is taxed by only one state, the credit is not available. You may claim the credit only if the same income is taxed by both Wisconsin and another state.

### **III. HOW TO COMPUTE THE CREDIT**

#### **A. Complete Return for Other State**

Before computing your Wisconsin credit for tax paid to another state, first complete an income tax return for the other state to determine the amount of your net tax. (**Caution:** The credit for tax paid to another state is not based on the tax withheld for the other state or your estimated tax payments to the other state.)

#### **B. Complete Schedule OS**

Complete Wisconsin Schedule OS to determine your credit for tax paid to another state. You must attach a copy of Schedule OS to your Wisconsin income tax return.

You may obtain Schedule OS from any Department of Revenue office or from our Internet web site at: [www.dor.state.wi.us](http://www.dor.state.wi.us).

#### **C. If All of the Income Taxed by the Other State is Considered Income for Wisconsin**

If all of the income taxed by the other state is considered income for Wisconsin tax purposes, your credit for tax paid to another state is equal to the net tax, as determined on the income tax return for the other state, which has been paid to that other state. However, the credit is limited to the amount of net tax shown on your Wisconsin income tax return (line 31 of 2005

Form 1 (line 57 of Form 1NPR) for individuals or line 12 of Form 2 for estates and trusts).

**Note:** If you have a question as to which line on your other state's return is considered "net tax," write to the Customer Service and Education Bureau, Wisconsin Department of Revenue, Mail Stop 5-77, PO Box 8949, Madison WI 53708-8949 or call (608) 266-2772.

**Example 1:** You were a Wisconsin resident for all of 2005. You worked part of the year in Iowa. The wages you earned in Iowa are taxable by both Iowa and Wisconsin. The amount of Iowa tax that was withheld from your wages was \$140. The net tax computed on your 2005 Iowa income tax return is \$100. You will receive a \$40 refund from Iowa. Your Wisconsin credit for tax paid to Iowa is \$100, assuming your Wisconsin net tax is at least \$100.

**Example 2:** You were a Wisconsin resident for all of 2005. You paid \$1,850 of income tax to New York state for 2005 on income of \$30,000. Your 2005 Wisconsin net income is as follows:

Income taxable by both Wisconsin and New York state	\$30,000
Income taxable only by Wisconsin	20,000
Wisconsin net operating loss carryforward	(30,000)
Wisconsin net income	\$20,000

Your 2005 Wisconsin net tax is \$727. Since the \$30,000 of income that is taxable by New York state is considered income for Wisconsin, you may claim a credit of \$727 (amount of Wisconsin net tax) for tax paid to New York state.

#### D. If Only Part of the Income Taxed by the Other State is Considered Income for Wisconsin

If only part of the income taxed by the other state is considered income for Wisconsin tax purposes (for example, 100% of the capital gain from the sale of assets held more than one

year is taxed by various other states, but only 40% is taxed by Wisconsin), use the following formula to determine the amount of credit you may claim.

$$\frac{\text{Income taxable by both Wisconsin and other state}}{\text{Total income taxable by other state}} \times \text{Net income tax paid to other state} = \text{Amount allowable as a credit against Wisconsin tax}$$

**Note:** The above formula is used when completing lines 5 and 6 of Schedule OS.

The credit is limited to the amount of net tax shown on the Wisconsin income tax return.

**Example 1: Credit based on long-term capital gain.** You were a Wisconsin resident for all of 2005. You sold land in Illinois in 2005 and realized a gain of \$20,000 on the sale. The entire gain is taxable by Illinois, but only 40% (\$8,000) is taxable by Wisconsin. You had no other gain or loss allocable to Illinois. You completed an Illinois income tax return and paid a net tax to Illinois of \$1,140. Using the above formula, your Wisconsin credit for tax paid to Illinois is \$456, computed as follows:

$$\frac{\$8,000}{\$20,000} \times \$1,140 = \$456$$

**Note:** When completing Schedule OS, in this example \$8,000 would be filled in on line 2 as income taxable to both Wisconsin and the other state. The \$20,000 would be filled in on line 3 as total income taxed by the other state.

**Example 2: Credit based on long-term capital gain and capital loss.** You were a Wisconsin resident for all of 2005. You sold real estate located in California and realized a \$30,000 long-term capital gain. The entire gain is taxable by California. You had no other income or loss allocable to California. The net income tax paid to California for 2005 was \$1,950.

For Wisconsin tax purposes, you have a capital loss carryover to 2005 of \$13,000. The net capital gain taxable by Wisconsin is as follows:

Long-term capital gain from sale of California real estate	\$30,000
Less capital loss carryover	<u>-13,000</u>
Net long-term capital gain	17,000
Less 60% capital gain exclusion	<u>-10,200</u>
Wisconsin taxable amount	<u>\$ 6,800</u>

In addition to the \$6,800, you have other income taxable to Wisconsin and compute a Wisconsin net tax (before deducting a credit for tax paid to California) of \$2,350.

Because Wisconsin did not tax the same amount of capital gain as California, the credit for tax paid to California must be computed using the formula. The amount of capital gain considered income for Wisconsin and included in the numerator of the formula as income taxable by both Wisconsin and California is \$19,800 (\$13,000 which is included in Wisconsin income but offset by the capital loss carryover plus \$6,800 which is taxable after the capital gain exclusion is applied). The allowable credit for tax paid to California is \$1,287, computed as follows:

$$\frac{\$19,800}{\$30,000} \times \$1,950 = \$1,287$$

**Note:** When completing Schedule OS, in this example \$19,800 would be filled in on line 2 as income taxable to both Wisconsin and the other state. The \$30,000 would be filled in on line 3 as total income taxed by the other state.

**Example 3: Credit based on more than one long-term capital gain and capital loss.** You were a Wisconsin resident for all of 2005. You sold real estate located in California and realized a \$20,000 long-term capital gain. The entire gain is taxable by California. You also had a \$10,000 gain taxable by Wisconsin on the sale of stock held more than one year and a

\$4,000 long-term Wisconsin capital loss carryover.

Because Wisconsin did not tax the same amount of capital gain as California, the credit for tax paid to California must be computed using the formula. When determining the income taxable by both Wisconsin and the other state, a portion of the capital loss is allocated to each long-term capital gain. The gain taxable by both California and Wisconsin is determined as follows:

Long-term capital gain from sale of California real estate	\$20,000
Portion of capital loss used to offset gain	2,667
<u>\$20,000</u> × \$4,000 = \$2,667	
\$30,000	
Balance	<u>17,333</u>
Less 60% capital gain exclusion	<u>10,400</u>
Taxable amount	\$ 6,933

The amount of capital gain taxable by both Wisconsin and California is \$9,600 (\$2,667 which is included in Wisconsin income but offset by the capital loss carryover, plus \$6,933 which is taxable after the capital gain exclusion is applied).

**Note:** When completing Schedule OS, in this example \$9,600 would be filled in on line 2 as income taxable to both Wisconsin and the other state.

**Example 4: Credit based on partnership income and long-term capital gain.** You were a Wisconsin resident for all of 2005. You were a general partner in XYZ Partnership, which had nonunitary operations in Wisconsin and Ohio. Since the Wisconsin and Ohio operations were nonunitary, the partnership determined its 2005 income or loss from Wisconsin operations and Ohio operations by means of separate accounting. The partnership had the following income(loss):

	Wisconsin Operations	Ohio Operations	Total Operations
Ordinary income (loss)	\$(1,500)	\$500	\$(1,000)
Capital gain	1,000	5,000	6,000

On your 2005 Ohio income tax return, you reported ordinary income of \$500 and capital gain income of \$5,000. You paid net income tax of \$500 to Ohio. Since you were a full-year Wisconsin resident, you were required to report on your Wisconsin income tax return your distributive share of XYZ Partnership's entire income or loss, regardless of where it was earned or incurred. On your Wisconsin return, you reported an ordinary loss of \$1,000 and capital gain income of \$2,400 (40% of \$6,000).

You may claim a credit of \$227 for tax paid to Ohio. This credit is computed as follows:

$$\frac{\$2,500}{\$5,500} \times \$500 = \$227$$

The numerator of the formula (income taxable by both Wisconsin and Ohio) consists of the \$500 of partnership ordinary income and \$2,000 of capital gain income (40% of the \$5,000 capital gain income taxed by Ohio is taxable by Wisconsin). The \$500 of partnership ordinary income is considered taxable by Wisconsin because the ordinary income or loss from both Wisconsin and Ohio operations is included in Wisconsin adjusted gross income.

The denominator of the formula (total income taxable by Ohio) consists of the \$500 of ordinary income and \$5,000 of capital gain that was taxable by Ohio.

**Note:** When completing Schedule OS, in this example \$2,500 would be filled in on line 2 as income taxable to both Wisconsin and the other state. The \$5,500 would be filled in on line 3 as total income taxed by the other state.

**Example 5: All income taxable by other state not taxable by Wisconsin.** You were a California resident until July 1, 2005, when your employer transferred you to Wisconsin and you became a Wisconsin resident. You decided to rent out your California home while waiting for it to sell and realized net rental income of \$1,500 between July 1, 2005, and December 31, 2005. You received wages of \$25,000 and \$350 of interest income while a California resident. Your taxable income for California is \$26,850 and your net tax paid to California is \$1,600.

Your rental income is taxable by both Wisconsin and California. Because Wisconsin did not tax the wage and interest income you received while a California resident, you must use the formula on page 3 to compute your credit for tax paid to California. The allowable credit for tax paid to California is \$89, computed as follows:

$$\frac{\$1,500}{\$26,850} \times \$1,600 = \$89$$

**Note:** When completing Schedule OS, in this example \$1,500 would be filled in on line 2 as income taxable to both Wisconsin and the other state. The \$26,850 would be filled in on line 3 as total income taxed by the other state.

## E. Minimum Tax

You may claim a credit for minimum tax paid to another state if (1) the minimum tax is classified as an income tax, and (2) the income taxed by the other state is also considered income by Wisconsin.

**Note:** If you have questions about whether another state's minimum tax is classified as an income tax, write to the Customer Service and Education Bureau, Wisconsin Department of Revenue, Mail Stop 5-77, PO Box 8949, Madison WI 53708-8949 or call (608) 266-2772.

**Example 1:** You were a Wisconsin resident for all of 2005. You own an apartment building in New York. Your 2005 net income from the rental of this building was \$20,000. You paid \$800 of New York state income tax on this rental income. You also paid \$100 of New York minimum income tax based on a tax preference item of \$7,000 for depreciation. The New York minimum income tax is classified as an income tax.

Your 2005 Wisconsin net tax is \$4,500, which includes income tax of \$4,000 and alternative minimum tax of \$500. The New York rental income is included as taxable income in the computation of the Wisconsin income tax. The tax preference item of \$7,000 is included in alternative minimum taxable income for the computation of the Wisconsin alternative minimum tax.

Your Wisconsin credit for tax paid to New York state is \$900 (\$800 of New York income tax plus \$100 of New York minimum income tax).

**Example 2:** Assume the same facts as in Example 1 except that you do not owe Wisconsin alternative minimum tax for 2005 because your Wisconsin alternative minimum taxable income is below the exemption amount.

Because you are not liable for Wisconsin alternative minimum tax, the tax preference item for depreciation is not considered income for Wisconsin tax purposes. Therefore, you may not claim a credit for the \$100 of minimum income tax paid to New York state. You may claim only the \$800 New York income tax as a credit for tax paid to New York.

## IV. WHEN TO CLAIM THE CREDIT

### A. Credit Allowed for Year Income Taxable

The credit for tax paid to another state may be claimed on the Wisconsin income tax return for

the year in which the out-of-state income is considered income for Wisconsin tax purposes. For example, if income is taxable on a 2005 Wisconsin income tax return, the credit for tax paid to another state on such income may only be claimed on the 2005 Wisconsin income tax return, regardless of when the tax is actually paid to the other state.

**Example 1:** You were a full-year resident of Wisconsin during 2005. You sold real estate located in California in 2005. The gain is reported on both your 2005 California and Wisconsin income tax returns. You paid the tax to California in 2006 at the time you filed your California income tax return. You may claim a credit for tax paid to California on your 2005 Wisconsin income tax return even though the tax was paid in 2006.

**Example 2:** You were a full-year resident of Wisconsin during 2005. In 2005 you received income of \$4,000 from rental property located in Iowa. You made estimated tax payments to Iowa of \$150 in 2005 and \$50 in January 2006. The Iowa income of \$4,000 is reported as income on both your 2005 Iowa and Wisconsin returns. The 2005 Iowa income tax return shows the following:

Iowa rental income	<u>\$ 4,000</u>
Iowa net tax	\$ 185
Estimated tax payments	<u>200</u>
Refund	\$ 15

You may claim a credit for tax paid to Iowa of \$185 on your 2005 Wisconsin income tax return even though a part of the \$185 was paid in 2006.

### B. No Refund or Carry Forward of Unused Credit

If the credit for tax paid to another state is not entirely offset against Wisconsin net tax for the year, the balance of the credit may not be re-



funded to you nor carried forward to subsequent years.

### **C. Claim Credit Within Four Years**

The credit for tax paid to another state must be claimed within four years of the unextended due date of the Wisconsin income tax return. For example, a credit for a 2005 calendar year return (due April 15, 2006) must be claimed by April 15, 2010.

**Example:** You filed your 1999 Wisconsin income tax return on April 15, 2000. Partnership income of \$20,000 was included on your 1999 Wisconsin return. You did not file an income tax return with any other state at that time.

During 2005 it was determined that you should have filed a 1999 Minnesota income tax return as the partnership income was also taxable by that state. You filed a 1999 Minnesota income tax return and paid tax of \$1,200 to Minnesota during 2005.

You may not claim a credit on your 2005 Wisconsin income tax return for the 1999 tax paid to Minnesota in 2005. The credit could have been claimed only on your 1999 Wisconsin income tax return. Because the credit must be claimed within four years of the unextended due date of the 1999 Wisconsin return, an amended 1999 Wisconsin return may not be filed to claim the credit for tax paid to Minnesota in 2005. In this example, you would have had to claim the credit by April 15, 2004.

## **V. HOW TO CLAIM THE CREDIT**

### **A. Individuals**

Claim the credit on line 45 of the 2005 Form 1 or line 70 of Form 1NPR. The amount of credit claimed may not exceed the net tax shown on line 31 of the 2005 Wisconsin Form 1 or line 57 of Form 1NPR.

### **B. Estates and Trusts**

Claim the credit on line 18 of Form 2. The amount of credit claimed may not exceed the net tax shown on line 12 of Form 2.

### **C. Attachments to the Return**

Schedule OS and a complete copy of the other state's income tax return and withholding statements (Forms W-2, W-2G, or 1099), if any, must be attached to the Wisconsin income tax return.

Shareholders of tax-option (S) corporations, partners of partnerships, and members of limited liability companies treated as partnerships are required to attach additional information to their Wisconsin returns. See "Attachments to the Wisconsin return" in Section B of Part VII on page 10 for further information.

## **VI. CHANGES TO OTHER STATE'S RETURN**

If you claim a credit for tax paid to another state and you later file an amended return with that other state, you must also file an amended Wisconsin return if the changes to the other state's return affect the amount of your Wisconsin credit for tax paid to another state. The amended Wisconsin return must be filed within 90 days of the date the amended return was filed with the other state.

## **VII. SHAREHOLDERS OF TAX-OPTION (S) CORPORATIONS, PARTNERS OF PARTNERSHIPS, AND MEMBERS OF LIMITED LIABILITY COMPANIES TREATED AS PARTNERSHIPS**

If a tax-option (S) corporation, partnership, or limited liability company (LLC) treated as a partnership operates in any state other than Wisconsin and either the corporation or its shareholders, the partnership or its partners, or the

LLC or its members must pay income or franchise taxes to that state on or measured by the income earned there, Wisconsin resident shareholders, partners, or members may claim credit for their pro rata shares of such taxes paid. The credit is allowable only if the income taxed by the other state is considered income for Wisconsin tax purposes.

#### **A. What Taxes Qualify for the Credit?**

Income and franchise taxes that are measured by income and paid to another state by a tax-option (S) corporation, partnership, or by an LLC treated as a partnership may be claimed as a credit by Wisconsin resident shareholders of that corporation, partners of that partnership, or members of that LLC.

The following examples illustrate various types of taxes that do and do not qualify for the credit. While the examples refer to tax-option (S) corporations and their shareholders, they also apply to partnerships and LLCs treated as partnerships and their partners and members when the partnership or LLC is subject to the same type of tax.

**Example 1: Illinois replacement tax.** The Illinois replacement tax is imposed on a tax-option (S) corporation's net income. The net income is computed by combining the corporation's federal ordinary income or loss and separately stated items of income, loss, and deduction and then making various Illinois additions and subtractions.

A Wisconsin resident shareholder may claim a credit for his or her pro rata share of the Illinois replacement tax paid by a tax-option (S) corporation, provided the income taxed by Illinois is also considered income for Wisconsin.

**Example 2: Michigan single business tax.** The Michigan single business tax is imposed on the privilege of doing business in Michigan. The tax base is business income subject to certain modifications and adjustments. For tax-

option (S) corporations, business income is federal ordinary income or loss combined with the separately stated items of income, loss, and deduction. Modifications and adjustments include the addition of compensation payments and depreciation deductions and the subtraction of the net capital asset deduction.

Michigan permits an alternate method, the gross receipts short method, to compute the single business tax. Under this method, the tax applies to 50% of the corporation's adjusted gross receipts.

If the Michigan single business tax is measured by net income that is also subject to Wisconsin income taxation, a Wisconsin resident shareholder may claim a credit for his or her pro rata share of the tax paid by the tax-option (S) corporation. However, Michigan single business tax computed using the gross receipts short method does not qualify for the credit for tax paid to another state.

**Example 3: Minnesota taxes.** Minnesota imposes taxes based on the federal taxes for built-in gains, capital gains, and excess passive income of tax-option (S) corporations. In addition, a minimum fee, based on the sum of the property, payroll, and sales attributable to Minnesota, applies to all tax-option (S) corporations.

A Wisconsin resident shareholder may not claim a credit for his or her pro rata share of the tax-option (S) corporation's built-in gains tax, capital gains tax, or excess passive income tax paid to Minnesota since these taxes are not imposed on the corporation's net income. In addition, the Minnesota minimum fee does not qualify for the credit for tax paid to another state.

**Example 4: New York taxes.** New York imposes a corporate level tax on tax-option (S) corporations. The tax is equal to the greater of the tax that would be computed on the entire

net income base or the fixed dollar minimum tax. The entire net income base is calculated by starting with the amount of federal taxable income that the corporation would have reported if it were a regular C corporation and making New York additions and subtractions. The fixed dollar minimum tax is determined by the corporation's gross payroll.

Federal S corporations that do not elect New York S corporation status are subject to the New York corporation franchise tax which is imposed on subsidiary capital and whichever of the following bases results in the greatest franchise tax liability: (a) allocated net income, (b) allocated capital, (c) minimum taxable income, or (d) a flat fee minimum tax that varies based on the corporation's gross payroll. Corporations paying the franchise tax on net income start with federal taxable income (before the net operating loss deduction and special deductions) and make various New York modifications. Minimum taxable income is net income modified to reflect certain tax preferences and adjustments.

A Wisconsin resident shareholder may claim a credit for his or her pro rata share of the tax-option (S) corporation's tax paid to New York if the tax is based on net income and the income is also considered income for Wisconsin income tax purposes.

The New York fixed dollar minimum tax paid by a tax-option (S) corporation does not qualify for the credit for tax paid to another state.

In addition, the New York tax imposed on subsidiary capital as well as the franchise tax based on allocated capital does not qualify for the credit.

**Example 5: Pennsylvania taxes.** Pennsylvania has a corporate net income tax, a capital stock tax, a franchise tax, and a corporate loans tax. The corporate net income tax applies to certain domestic and foreign corporations, except fed-

eral S corporations that have qualified and elected to be treated as Pennsylvania S corporations. The net income tax is measured by net income calculated by using federal taxable income (before the net operating loss deduction and special deductions) and making Pennsylvania modifications.

The capital stock tax applies to domestic tax-option (S) corporations, while foreign corporations are subject to a franchise tax on the actual value of their capital stock. The actual stock value for both domestic and foreign corporations is based on the average net income and net worth.

The corporation loans tax applies to interest-bearing obligations issued by domestic and foreign subsidiaries doing business in Pennsylvania that are held by individual Pennsylvania residents and by certain fiduciaries.

A Wisconsin resident shareholder may not claim a credit for his or her pro rata share of the Pennsylvania capital stock tax, franchise tax, or corporation loans tax since these taxes are not based on net income.

If a tax-option (S) corporation pays the Pennsylvania net income tax because it is not treated as a Pennsylvania S corporation, a Wisconsin resident shareholder may claim a credit for his or her pro rata share of the tax, provided the income is also subject to Wisconsin income taxation.

**Example 6: Washington business and occupation tax.** Washington imposes a business and occupation tax for the act or privilege of engaging in business activities within that state. The tax is measured by the application of rates against the value of various bases, such as the value of products manufactured, gross proceeds of sales, or gross income.

A Wisconsin resident shareholder may not claim credit for the Washington business and

occupation tax since it is not measured by net income.

**Example 7: Texas franchise tax.** The Texas franchise tax applies to corporations, including tax-option (S) corporations, that do business in Texas or that are chartered or authorized to do business in Texas. The tax is based, in part, on net taxable capital and, in part, on net taxable earned surplus. The net taxable earned surplus is calculated by making certain additions and subtractions to federal taxable income.

A Wisconsin resident shareholder may claim a credit for his or her pro rata share of that portion of the Texas franchise tax based on earned surplus, provided the income is also considered income for Wisconsin income tax purposes. The tax based on earned surplus is computed by subtracting the tax on net taxable capital from the tax on net taxable earned surplus.

That portion of the tax based on net taxable capital does not qualify for the credit for tax paid to another state.

## **B. Attachments to the Wisconsin Return**

A completed Wisconsin Schedule OS must be attached to the Wisconsin income tax return. In addition, shareholders, partners, and members must submit verification with their Wisconsin income tax returns of the amount of their credits as follows:

- If the corporation's S status, partnership status, or the LLC status is recognized for income tax purposes by the other state and the Wisconsin resident shareholder, partner, or member files an individual or fiduciary income tax return with that state and pays tax on his or her pro rata share of the corporation's, partnership's, or LLC's income earned there, the shareholder, partner, or LLC member must attach a copy of the

other state's individual or fiduciary income tax return.

- If the corporation, partnership, or LLC is required to file a Wisconsin return (Form 5S for a tax-option (S) corporation or Form 3 for a partnership or LLC), the amount of credit for tax paid to another state is shown on the Wisconsin Schedule 5K-1 (Schedule 3K-1 for a partnership or LLC) which the Wisconsin resident shareholder, partner, or member receives from the corporation, partnership, or LLC. The shareholder, partner, or member must attach a copy of the Schedule 5K-1 or 3K-1, as appropriate, to the Wisconsin individual or fiduciary income tax return.
- If the corporation, partnership, or LLC is not required to file a Wisconsin return and the corporation, partnership, or LLC pays an income or franchise tax to another state on or measured by the income earned there, the shareholder, partner, or member must attach a letter from the corporation, partnership, or LLC which includes a schedule showing the shareholder's, partner's, or member's pro rata share of the items taxed by that state, the adjusted gross income, and the net tax paid.

## **VIII. ADDITIONAL INFORMATION**

If you have additional questions about the Wisconsin credit for tax paid to another state, please contact any Department of Revenue office or write to or call the Customer Service and Education Bureau, Wisconsin Department of Revenue, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949, telephone (608) 266-2772. You may also e-mail your questions to: [income@dor.state.wi.us](mailto:income@dor.state.wi.us).